FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.184 OF 2006

Office notes, office Memoranda of Coram, appearance, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr.Vivek Kantawala i/by V.M.Sharma for the petitioners.

Mr.K.C.Prusty for the Respondent.

Ms. G.P. Mulekar, APP. for the State.

CORAM : R.S. MOHITE, J.
DATED : 31/1/2006.

P.C.

1. This petition seeks to quash proceedings under Section 138 of the Negotiable Instruments Act. There is no challenge to the order issuing process in the petition. In my view, the order issuing process was also required to be challenged. The point which was argued was that there was no averments in the complaint as required by Section 141 of the Negotiable Instruments Act as interpreted by the Apex Court in the case of S.M.S. Pharmaceuticals Ltd. Vs. Neeta Bhalla. In so far petitioner No.1 is

concerned, he is admittedly signatory to the cheque. The Apex Court has categorically held that as far as signatory of the cheque is concerned, he would be liable. As far as applicant No.2 is concerned, she is at liberty to approach the Sessions Court. In the circumstances, with liberty to approach the Sessions Court being granted only to Petitioner No.2, petition is disposed of. Trial may not proceed for a period of two weeks. It is made clear that the petition is rejected in so far as Petitioner No.1 is concerned.

(R. S. MOHITE, J.)